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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,186	10/06/2003	Dexter V. Bautista	DIX009-162	2337

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DIEDERIKS & WHITELAW, PLC
124 Dillingham Square, #301
Woodbridge, VA 22192

EXAMINER

BEAUCHAINE, MARK J

ART UNIT PAPER NUMBER

3653

DATE MAILED: 12/27/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/678,186	Applicant(s) BAUTISTA ET AL.	
	Examiner Mark J. Beauchaine	Art Unit 3653	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 14 October 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10 and 16-21 is/are rejected.
- 7) ☒ Claim(s) 9, 11-15, 22 and 23 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 06 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Arguments

Applicant's arguments submitted on 14 October 2005 with respect to the rejection of claims 1-8, 10 and 16-21 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, new grounds of rejection are made in view of Patent Number 5,927,539 by Truitt et al.

Said claims were rejected under 35 U.S.C. §103 by Non-final Office action dated 14 July 2005 as follows:

Claims 1-8, 10 and 16-18 were found to be unpatentable over Patent Number US 6,640,994 B2 by Chen (hereinafter "Chen") in view of Patent Number 4,359,147 by Levasseur (hereinafter "Levasseur"), and

Claims 19-21 were found to be unpatentable over Chen in view of Levasseur as applied to claim 16, and further in view of Patent Number 3,569,924 by Drake et al (hereinafter "Drake").

Claims 9, 11-15, 22 and 23 were objected to as being dependent upon a rejected base claim.

Art Unit: 3653

In response to the above rejections the Applicant, via response dated 14 October 2005, presented evidence antedating the Chen reference. The Examiner notes that the elements found in Chen that were referred to in the above-mentioned rejections are well known in the vending art. Patent Number 5,927,539 by Truitt et al (hereinafter "Truitt") discloses a vending apparatus that incorporates cabinet 12, stacking columns 18 and receiving trough 112 that are analogous to the machine body 10, magazines 17-21 and chute 35 found in Chen, respectively. Therefore, said elements of Truitt read on the Applicant's cabinet frame, stack areas and delivery chute, respectively. Still further, Truitt discloses optical transmitter 32 and receiver 34 that are analogous to the light curtain 37 of Chen.

Accordingly, the above-mentioned claims rejected in the previous Office action stand rejected as follows:

Claims 1-8, 10 and 16-18 stand rejected under 35 U.S.C. §103 under Truitt (in lieu of Chen) in view of Levasseur, and

Claims 19-21 stand rejected under 35 U.S.C. §103 under Truitt (in lieu of Chen) in view of Levasseur as applied to claim 16, and further in view of Drake.

Allowable Subject Matter

Claims 9, 11-15, 22 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Inventorship

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Conclusion

The following prior art made of record and not relied upon is considered pertinent to applicant's disclosure:


Patent Number 5,913,399 by Takemoto et al because of sensors 281-283 that can use "ultrasonic waves for detection [or] light for detection, etc." (column 11, lines 15 plus).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark J. Beauchaine whose telephone number is (571)272-6934. The examiner can normally be reached on 8:00AM through 5:00PM Mondays through Thursdays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Donald P. Walsh can be reached on (571)272-6944. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mjb


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